

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-12017

Frankie James Gardner

v.

Lois Russo

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**CLERK'S CERTIFICATE**

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 1/11/05.

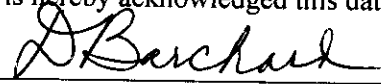
In testimony whereof, I hereunto set my hand and affix the seal of this Court on January 19, 2005.

Tony Anastas, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 1/19/05.

  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-12017-EFH**

Garner v. Russo  
Assigned to: Judge Edward F. Harrington  
Cause: 28:2254 Petition for Writ of Habeas  
Corpus (State)

Date Filed: 09/10/2004  
Jury Demand: None  
Nature of Suit: 530 Habeas  
Corpus (General)  
Jurisdiction: Federal Question

**Petitioner**

**Frankie Garner**

represented by **Frankie Garner**  
Souza Baranowski Correctional  
Center  
P.O. Box 8000  
Shirley, MA 01464  
PRO SE

V.

**Respondent**

**Lois Russo**  
*Superintendent, Souza-  
Baranowski  
Correctional Center*

represented by **Maura D. McLaughlin**  
Office of the Attorney General  
Criminal Bureau, Appellate  
Division  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
617-727-2200, ext 2857  
Fax: 617-727-5755  
Email:  
maura.mclaughlin@ago.state.ma.us

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
09/10/2004	<a href="#">1</a>	MOTION for Leave to Proceed in forma pauperis by Frankie Garner.(Jenness, Susan) (Entered: 09/17/2004)
09/10/2004	<a href="#">2</a>	PETITION for writ of habeas corpus pursuant to 28:2254, filed by Frankie Garner.(Jenness, Susan) (Entered: 09/17/2004)
09/10/2004		• If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Jenness, Susan) (Entered: 09/17/2004)
09/17/2004		• Case undergoing preliminary screening (Jenness, Susan) (Entered: 09/17/2004)
09/21/2004	<a href="#">3</a>	Judge Edward F. Harrington : ORDER entered denying <a href="#">1</a> Motion for Leave to Proceed in forma pauperis. Petitioner must pay the \$5.00 filing fee within 42 days of the date of this Order or this case will be dismissed without prejudice. (Weissman, Linn) (Entered: 09/22/2004)
09/21/2004	<a href="#">4</a>	Judge Edward F. Harrington: SERVICE ORDER entered re: 2254 Petition. (1) The Clerk shall correct the case caption to reflect that the only respondent to this action is Lois Russo, the Superintendent of Souza-Baranowski Correctional Center; (2) Pursuant to Rule 4 of the Rules Governing Section 2254 cases, the Clerk of this Court is hereby ordered to serve a copy of the Petition for a Writ of Habeas Corpus by mailing copies of the same, certified mail, to (i) Lois Russo, Superintendent; and (ii) Cathryn Neaves, Chief, Appellate Division, Attorney General for the Commonwealth of Massachusetts; (3) It is further ordered that Respondent shall, within 20 days of

		receipt of this Order, file an answer (or other proper responsive pleading) to the Petition for Writ of Habeas Corpus; and (4) This Court further requests Respondent, as part of the return, to file such documents which reflect on whether Petitioner has exhausted his available state remedies with respect to the matters raised by the Petition.(Weissman, Linn) (Entered: 09/22/2004)
09/21/2004	●	Set Deadlines/Hearings: Payment of filing fee due by 11/2/2004. (Weissman, Linn) (Entered: 09/22/2004)
09/21/2004	●	Remark: Caption amended per 4 Court's Order. (Weissman, Linn) (Entered: 09/22/2004)
09/27/2004	●	Filing fee: \$ 5.00, receipt number 58843 regarding Filing Fee Receipt mailed to Petitioner. E-mail to session (Jenness, Susan) (Entered: 09/27/2004)
10/08/2004	● <u>5</u>	MOTION for Extension of Time to 11/15/2004 to respond to petition by Lois Russo.(Holahan, Sandra) (Entered: 10/12/2004)
10/25/2004	●	Copy of docket sheet mailed to petitioner via us mail to confirm payment of the filing fee. (Jenness, Susan) (Entered: 10/25/2004)
10/28/2004	●	Judge Edward F. Harrington : ELECTRONIC ORDER entered granting <u>5</u> Motion for Extension of Time to 11/15/2004. MOTION ALLOWED. cc/cl (Holahan, Sandra) (Entered: 10/28/2004)
11/17/2004	● <u>6</u>	SUPPLEMENTAL ANSWER to Complaint (not scanned due to the filing being bound) by Lois Russo. (Smith3, Dianne) (Entered: 11/23/2004)
11/17/2004	● <u>7</u>	MOTION to Dismiss by Lois Russo.(Smith3, Dianne) (Entered: 11/23/2004)
11/17/2004	● <u>8</u>	MEMORANDUM in Support re <u>7</u> MOTION to Dismiss filed by Lois Russo. (Smith3, Dianne) (Entered: 11/23/2004)

11/17/2004	99	ANSWER to Complaint by Lois Russo.(Smith3, Dianne) (Entered: 11/23/2004)
12/10/2004	10	Judge Edward F. Harrington : ORDER entered ORDER DISMISSING CASE(Holahan, Sandra) (Entered: 12/16/2004)
01/11/2005	11	MOTION for Reconsideration re 10 Order Dismissing Case by Frankie Garner.(Holahan, Sandra) (Entered: 01/12/2005)
01/11/2005	12	NOTICE OF APPEAL as to 10 Order Dismissing Case by Frankie Garner. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 1/31/2005. (Holahan, Sandra) (Entered: 01/12/2005)